A.F.R

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Justice Vijay Kumar Shrivastava

Writ Petition (S) No. 5447 of 2006

PETITIONER

Smt. Sudha Soni, W/o. Nanhu Soni, aged about 30 years, House wife, R/o. Mathpara Ward No.8, Near Hanuman Mandir, Kawardha, District Kabirdham (CG).

Versus

RESPONDENTS

1 State of Chhattisgarh, through- the Secretary, Department of Women and Child Development, D.K.S. Bhawan, Raipur (CG.).

2 The Commissioner, Women and Child Development, Kabirdham, District Kabirdham (CG).

3 The Collector, Kabirdham, District Kabirdham (CG.).

4 The Project Officer, Integrated Development Project, Kawardha, District Kabirdham (CG).

5 The District Programme Officer, Women and Child Development, Kawardha, District Kabirdham (CG).

6 The Commissioner, Municipal Corporation, Kabirdham (CG).

7 Smt. Dropati Dhruv, W/o. Bhagwat, Caste - Gond, Ward No.8, Mathpara, Budamahadev Ward – Kawardha, District – Kabirdham (CG.).

Present :-

Shri Deepak Jain, counsel for the petitioner.

Shri NK Agrawal, Dy Advocate General for respondents No.1 to 5 /State.

Shri HM Solapurkar, counsel for respondent No.6.

Shri MK Bhaduri, counsel for respondent No.7.

ORDER
(Passed on 25/01/2007)

Project Officer, Integrated Development Project, Kawardha, vide order dated 24/05/2006 selected respondent No.7 – Smt. Dropati Dhruv on the post of Anganwadi Karyakarta of Ward No.8, Kawardha, instead of selecting the petitioner. Feeling aggrieved, this writ petition under Article 226/227 of the Constitution of India.

2) State Government vide Letter No. F1(A)/99/95/50-1 dated 06/01/2000 prescribed educational qualifications and other requirements for appointment of Anganwadi Karyakarta. The guidelines also prescribe that in case all the candidates possess same qualification and other requirements, preference should be given to widow/deserted woman/member of SC/ST community. Applications from suitable candidates for appointment to the post of Anganwadi Kayakarta were invited by respondent No.4. Petitioner, respondent No.7 and others submitted their applications along with educational testimonials and other documents. Municipal Council, Kawardha, after receiving applications and documents prepared a comparative chart and submitted the same to the department. On 24/05/2006 for selection of Anganwadi Kayakarta and Anganwadi Sahayika a meeting was held and the committee selected respondent No.7 for appointment as Anganwadi Karyakarta for Ward No.8, Kawardha.

3) The selection was challenged on the ground of irregularity by one of the councilors namely Pawan Kumar Jaiswal. Project Officer, Integrated Development Project, Kawardha enquired the charge and after completion of enquiry, submitted his report wherein the selection of respondent No.7 was found in accordance with guidelines.

4) Petitioner a married woman having qualification upto 12th standard living below the poverty line belonging to Soni caste, who applied for the post of Anganwadi Karyakarta against the post for Ward No.8, was not selected and instead respondent No.7 has been selected, therefore, she, challenged the appointment of respondent No.7, *inter alia*, alleging that respondent No.7 does not possess the requisite requirement as she being not a member of family living below the poverty line was not eligible for appointment, but ignoring the requisite condition respondent No.7 has been appointed to the post of Anganwadi Karyakarta.

5) Respondents contested the petition. Respondents No.1 to 5 have averred in their return that respondent No.7 Smt. Droptati Dhruv was living below the poverty line and that was duly supported by necessary certificate. She belonged to Scheduled Tribe community; therefore, she was entitled for preference as compared to the petitioner. Accordingly, she being eligible in accordance with preferential criteria, was selected vide order dated 24-5-2006. The complaint made by Councilor Pawan Kumar Jaiswal was enquired into, although at the time of spot inspection on 5-6-2006 respondent No.7 was not keeping in her possession, certificate of living below the poverty line, therefore, an endorsement was made, but that endorsement does not disentitle respondent No.7, who earlier along with her application had filed the document in support of her eligibility i.e. certificate of living below the poverty line. Selection of respondent No.7, in view of guidelines issued by the State Government on 6-1-2000 was legal and justified in the eye of law.

6) Learned counsel for the petitioner contended that for appointment to the post of Anganwadi Karyakarta one who lives below the poverty line was entitled for preference. Petitioner is a woman who is living below the poverty line whereas respondent No.7 does not live below the poverty line;

therefore, in place of petitioner, appointment of respondent No.7 is illegal. On the contrary, respondents contended that respondent No.7 along with her application gave educational testimonials and all other documents including certificate in proof of her living, below the poverty line and in respect of qualification, candidature and requirement of below the poverty line both Smt. Sudha Soni and Smt. Dropati Dhruv were found equal, therefore, the deciding factor remained the preferential criteria which was available to member of Scheduled Tribe community Smt. Dropati Dhruv (respondent No.7). Thus, respondent No.7 was selected and her selection was completely in accordance with law.

7) Annexure-R/3 submitted by respondents No.1 to 5 along with their return clearly indicates that petitioner and respondent No.7 both were married women having educated up to 12th standard and were living below the poverty line. According to guidelines dated 6-1-2000 preference was to be given to a woman belonging to SC/ST community, therefore, Dropati Dhruv being a member of Scheduled Tribe Community was eligible for selection to the post of Anganwadi Karyakarta. Annexure-R/4 annexed along with return of respondents No. 1 to 5 clearly establishes that respondent No.7 is a member living below the poverty line. Annexure-R/5, filed along with return of respondents No. 1 to 5, which is caste certificate, establishes that respondent No.7 belongs to a member of Scheduled Tribe community.

8) So far as complaint made by one of the Councilors, Municipal Council, Kawardha, namely Pawan Kumar Jaiswal is concerned, the same was enquired by the Project Officer. During spot inspection, living below the poverty line card was not found with respondent No.7 and that was endorsed in report dated 5-6-2006. After spot inspection the report dated 15/06/2006 in detail was sent by the Project Officer in which it has been

mentioned that Dropati Dhruv is a member who lives below the poverty line and her name was shown at serial No.8 in the concerned list. It is clear from Annexure R/3 enclosed with the return of respondents No. 1 to 5 that when comparative chart is prepared on that day or earlier to that, it was found that respondent No.7 was a member of family belonging to persons living below the poverty line and her name was shown at serial No. 8 in the list. Evidently when respondent No.7 was living below the poverty line and who along with her application submitted the certificate to establish her category i.e. category of persons living below the poverty line, she was not obliged to submit the certificate again to Project Officer, even at the time of spot inspection she was not required to carry such certificate, non possession of the certificate at that juncture does not disentitle her who in reality was a member belonging to that category and who at the relevant time to establish her relevant character had furnished the relevant certificate before the competent authority.

9) In view of the above, it is manifest that respondent No.7 and petitioner both were women candidates, married and were equally qualified, but when the preference criteria for selection to the post of Anganwadi Karyakarta arose, respondent No.7 being a member of Scheduled Tribe community was entitled for the selection to the post of Anganwadi Karyakarta in preference to the petitioner and accordingly she was selected and her selection does not wrap with any irregularity or illegality.

10) Learned counsel for the petitioner further contended that certificate of persons living below the poverty line belonging to respondent No.7 is a fraudulent document and on fraudulent document no appointment can be made. On the contrary, respondents opposed the same and contended that ration card certifying persons living below the poverty line has been

issued after due verification and certification by competent public servant and is genuine document, till it is declared void or inoperative by competent authority, that can be acted upon. Respondent No.7 was living below the poverty line and when she submitted her application she was a member of family belonging to persons living below the poverty line and in support of her category that she lives below the poverty line she along with her application filed requisite documents. From the record, it is manifest that respondent No.7 is a wife of Bhagwat Dhruv. Family living below the poverty line have been provided with ration card having such a title. Such a ration card has been issued in favour of Bhagwat Dhruv giving details of his family members wherein Dropti Dhruv has been shown as his wife. The document has been issued in accordance with the instructions of Government by competent public servant. Till the document is cancelled or declared void in accordance with law by a competent authority it has a legal sanctity and it cannot be discarded merely on such type of allegations. However, if petitioner feels that the document is a fraudulent one, it is open for her to opt suitable legal process for getting the certificate declared void in accordance with law.

11) In the result, there is no merit in the petition and the same is liable to be dismissed and is accordingly dismissed. No costs.

Sd/-
V.K.Shrivastava
Judge

Raju